

1 DOUGLAS SCOTT MAYNARD (SBN 90649)  
2 LAWRENCE M. BOESCH (SBN 114658)  
3 LAW OFFICES OF MAYNARD & HOGAN  
4 1475 S. Bascom Avenue, Suite 115  
5 Campbell, California 95008  
Telephone: (408) 559-8990  
Facsimile: (408) 559-7860

\*\*E-filed 8/2/05\*\*

6 Attorneys for Respondent  
7 IDEC CORPORATION

8  
9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA

11 AMERICAN MOTORISTS INSURANCE  
12 COMPANY, INC., an Illinois  
13 Corporation,

14 Petitioner,

15 v.

16 IDEC CORPORATION, a California  
17 Corporation,

18 Respondent.

Case No. C01-20821 JF ARB; and  
Case No. C02-01723 JF PVT

**RESPONDENT'S SUPPLEMENTAL CASE  
MANAGEMENT CONFERENCE STATEMENT  
and Order Continuing CMC Date to 9/9/05**

DATE: 08/05/05

TIME: 10:30 a.m.

DEPT: 3

JUDGE: The Honorable Jeremy D.  
Fogel

20 AND RELATED, REMOVED AND STAYED  
21 STATE ACTION

23 Pursuant to Local Rules 235-3 and 16-14, Respondent files  
24 this Supplemental Case Management Conference Statement. This  
25 Statement is being filed unilaterally, rather than as a Joint  
26 Statement. On July 25, 2005, counsel for Respondent learned for  
27

1 the first time that Petitioner had mail-served and e-filed its  
2 Supplemental Case Management Conference Statement.

3 No attempt had been made first, to seek joint approval or to  
4 collaborate in its contents.  
5

6 **STATUS OF CASE**

7 This case is set for appraisal of property damage under a  
8 provision of the Respondent's insurance policy issued by the  
9 Petitioner. On July 6, 2005, Court-appointed Umpire, Jack  
10 Eskridge held a preappraisal hearing for *in limine* motions and  
11 other concerns. Without any contact with Respondent or its  
12 counsel, one of the appraisers, Daniel Chekene, who had been  
13 appointed by Respondent, had miscalendared the hearing, thinking  
14 that it was to go on one of the days in the week of 7/11-15,  
15 rather than on all of those dates.  
16

17 An outcome of the 7/6/05 preappraisal hearing was that  
18 discovery, which had previously ordered, by Mr. Eskridge, to  
19 close on June 3, 2005, was reopened. It was set to close again on  
20 July 29, 2005.  
21

22 Numerous discovery disputes and renewed motions in limine  
23 for exclusion of testimony and documentary evidence from experts  
24 disclosed by each side have ensued. The meet-and-confer between  
25 counsel has been rancorous. Umpire Eskridge has indicated in  
26  
27

1 writing that he will not rule on any of these motions until after  
2 discovery has closed on July 29<sup>th</sup>.

3       The appraisal hearing is set for August 8-12, 2005. Umpire  
4 Eskridge has made it clear that it will not be postponed or  
5 rescheduled "unless someone dies." Mr. Hirsch, for Petitioner,  
6 estimated the time required for his case, at two (2) weeks; Mr.  
7 Boesch, representing Respondent, gave a two (2) day-estimate for  
8 his case.

9       Hirsch probably overestimates the amount of cross-  
10 examination his witnesses will draw; Boesch probably  
11 underestimates the amount of time that Hirsch and his associate,  
12 Barrett B. Braun, will spend questioning Respondent's witnesses.

13       Each party has disclosed over a half-dozen expert witnesses;  
14 Petitioner has also two (2) "non-retained experts," along with  
15 having gained leave to depose Respondent's lead counsel of  
16 record, Douglas Scott Maynard, on the grounds that he will  
17 testify at the hearing as a percipient witness.

18       By the 7/29 close of discovery, all of Respondent's experts  
19 will have been deposed, in addition to its lead counsel, except  
20 for one expert witness who has indicated that he may no longer  
21 want to serve in the matter. That expert has not responded to  
22 inquiry either from Respondent's counsel or from Petitioner's  
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1 counsel, as to his intentions. His testimony is the subject of a  
2 motion *in limine* by Petitioner.

3 By the 7/29 close of discovery, only three (3) of  
4 Petitioner's witnesses disclosed as experts will have been  
5 deposed. The reasons are the subject of Respondent's *in limine*  
6 motions, to be heard by Umpire Eskridge.

8 **RESOLUTION OF THE 8/5/05 CMC**

9 It is respectfully submitted that the Court might continue  
10 the Case Management Conference until some time in September 2005,  
11 in the prospect that there may be more time needed after August  
12 12, 2005, for the panel to finish its business. Once the matter  
13 is submitted, the panelists may take some time to render their  
14 award, and, if they cannot agree, the insurance policy provides  
15 that the Umpire is to set the amount, taking the panelists'  
16 evaluations into consideration.  
17

19 Respectfully submitted,

20 DATED: July 26, 2005 LAW OFFICES OF MAYNARD & HOGAN  
21  
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23 By:

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LAWRENCE M. BOESCH, ESQ.

25 Attorneys for Respondent

26 The Case Management Conference is continued to 9/9/05 at 10:30.  
It is so Ordered. 7/27/05 Judge Jeremy Fogel /s/electronic signature  
United States District Court

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